

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ALEXANDRA ELSHIRBINY,
Plaintiff,

No. C 04-03662 WHA
Related to:
No. C 02-05698 WHA

v.

JO ANNE B. BARNHART, Commissioner of
Social Security,
Defendant.

**ORDER DENYING PLAINTIFF'S
MOTION FOR RECONSIDERATION**

In this social-security appeal, the administrative law judge's conclusion that plaintiff was not entitled to claim an earlier disability onset date was supported by substantial evidence. Judgment was entered in favor of defendant and against plaintiff on July 12, 2005. Plaintiff, still acting *pro se*, now moves for reconsideration. Because plaintiff fails to meet any of the standards outlined in FRCP 59 or FRCP 60, this motion is **DENIED**.

A motion to alter or amend a judgment under FRCP 59(e) must be filed "no later than 10 days after entry of the judgment." Plaintiff's motion is thus untimely. Regardless, a motion for reconsideration under FRCP 59(e) should not be granted "absent highly unusual circumstances, unless the district court is presented with newly discovered evidence, committed clear error, or if there is an intervening change in the controlling law." *398 Orange St. Partners v. Arnold*, 179 F.3d 656, 665 (9th Cir. 1999). Here, plaintiff fails to demonstrate that any such circumstances exist; instead, she merely repeats arguments made in her motion for summary judgment.

1 A motion for relief from judgment under FRCP 60(b) may be granted for various
2 reasons, namely: (1) mistake, surprise, or excusable neglect; (2) newly discovered evidence
3 which could not be discovered by due diligence; (3) fraud, misrepresentation or other
4 misconduct; (4) a void judgment; (5) a satisfied or discharged judgment; or (6) any other reason
5 justifying relief from operation of judgment. Relief under exception (6) above requires a
6 finding of "extraordinary circumstances." *Twentieth Century-Fox Film Corp. v. Dunnahoo*, 637
7 F.2d 1338, 1341 (9th Cir. 1981). Plaintiff likewise fails to demonstrate that any of these
8 reasons are applicable here.

9 For these reasons, plaintiff's motion is **DENIED**.

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11 **IT IS SO ORDERED.**

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13 Dated: August 15, 2005



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE